

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

KEITH LAMAR,

Petitioner,

-vs-

TODD ISHEE, Warden,

Respondent.

:

Case No. 1:04-cv-541

:

District Judge Thomas M. Rose
Chief Magistrate Judge Michael R. Merz

:

ORDER ADOPTING REPORT AND RECOMMENDATIONS

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. #41), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired on April 20, 2005, hereby ADOPTS said Report and Recommendations.

It is therefore ORDERED that Respondent's Motion to Dismiss on statute of limitations grounds is denied without prejudice to its renewal after decision in *Lopez v. Wilson*, 366 F. 3d 430 (6th Cir. 2004) (granting rehearing *en banc*).

May 3, 2005

s/**THOMAS M. ROSE**

THOMAS M. ROSE
UNITED STATES DISTRICT COURT